



WISCONSIN

**DEPARTMENT OF WORKFORCE DEVELOPMENT**

Division of Economic Support  
Bureau of Welfare Initiatives

**TO: Economic Support Supervisors  
Economic Support Lead Workers  
Training Staff  
FSET Administrative and Provider Agencies  
Child Care Coordinators  
W-2 Agencies**

<b>BWI OPERATIONS MEMO</b>	
<b>No.:</b>	<b>99-58</b>
<b>File:</b>	<b>2816 2835 2840.4</b>
<b>Date:</b>	<b>07/21/99</b>
<b>Non W-2 [X] W-2 [X] CC [ ]</b>	
<b>PRIORITY: Medium</b>	

**FROM:** Stephen M. Dow  
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Policy Analysis and Program Implementation Section

**SUBJECT: CLARIFICATION OF FOOD STAMP AND FSET POLICY**

**CROSS REFERENCE:** **Food Stamp Handbook (FSH)**, Appendix, Chapters 4.0.0, 8.2.1, 11.3.0, 16.4.0  
**Income Maintenance Manual**, Chapter II, Part J, 3.0.0  
BWI Operations Memo 99-34

**EFFECTIVE DATE:** Immediately

**PURPOSE**

This Operations Memo provides clarification of Food Stamp (FS) policy in the areas of alien eligibility, food stamp posters, vehicles, excess medical deductions and Food Stamp Employment and Training (FSET) exemptions.

**ELIGIBLE ALIENS**

The US Department of Justice, Immigration and Naturalization Service (INS), recently published a proposed rule stating that receipt of FS benefits will **not** result in a person being considered a "public charge". Being in the category of a public charge could delay or prevent an alien resident's application for citizenship or make the person ineligible to adjust their status to a legal permanent resident. This decision also applies to the State Option Food Stamp Program. Aliens who are potentially eligible for either the federal or state FS benefits should be encouraged to apply for FS.

**FOOD STAMP PROGRAM POSTERS**

See BWI Operations Memo 99-34.

US Department of Agriculture, Food and Nutrition Service (FNS), has officially withdrawn the new "And Justice For All" posters after determining that the protected classes of sexual orientation and marital and family status are not applicable to any FNS administered nutrition assistance program. Counties, agencies, tribes, outstations, and Job Centers should continue to display the old "And Justice For All" posters.

DES has ordered additional copies of the old poster and will fill any orders when the poster is received. DES received only part of its order of the “Rights and Responsibilities” poster and those have all been distributed. When the balance of the order is received from FNS, the rest of the orders will be filled.

## **VEHICLES**

### *Physically Impaired*

**FSH** Appendix 11.3.8 provides that a vehicle used to transport a physically disabled member of the FS unit should be disregarded as an asset. Disability **for purposes of disregarding vehicles** is defined as meeting the definition of elderly or disabled under Appendix 1.6.1, or being “physically impaired”.

Counties and tribes have requested additional guidance on what fits under the phrase “physically impaired”. A person is physically impaired if the ES worker determines that an individual in the food unit has a permanent or temporary physical disability. If the worker can make that determination using his or her own judgement, no further verification is necessary. If the person does not appear to be impaired but a disability is claimed, then the FS group must provide verification from a physician that the person is physically disabled.

If the disability is only temporary, any change in status must be reported by the FS group as a change in circumstances and is subject to the 10-day reporting requirements.

### *Jointly Held Vehicles*

The policy on jointly held vehicles is located in **FSH** Appendix 11.3.0. Counties and tribes have requested clarification on when a jointly held vehicle can be excluded from assets due to non-availability. A jointly held vehicle is unavailable and can be disregarded only if the vehicle is jointly owned by a member of the FS group and a person who does not live with the FS group **and** the FS group member who jointly owns the vehicle cannot sell the vehicle. Both conditions must be met.

**Example:** The car is jointly owned by a FS group member and her mother who lives across town. Both signatures are required to transfer the title to a buyer. The mother will not sign. The vehicle is unavailable and should be disregarded.

**Example:** A FS group member and her husband jointly own the car. The husband and wife live in different households. Pending their divorce, both are under court order not to sell any of the assets of the marriage. The car is unavailable and should be disregarded.

### *Availability*

Both solely and jointly owned vehicles should be considered unavailable and, therefore, not counted in determining eligibility when the FS group member is legally prohibited from selling the vehicle. This situation could arise through actions of a court or when assets are placed in probate. The FS member must provide verification of the legal barrier to selling the vehicle. Any change in the status of the vehicle must be reported by the FS participant as a change in circumstances.

### *Valuation of Licensed Vehicles*

Agencies are reminded that under **FSH** Appendix 11.3.4, market value of a vehicle should be the “wholesale value” listed in a current standard guide of vehicle values (aka, “blue book”).

Be aware that the NADA (National Automobile Dealers Association) Internet site blue book does not list wholesale values; even its lowest retail value listed for a vehicle has been found to be significantly higher than wholesale values listed in other blue books internet sites and paper versions. Because the NADA site does not provide wholesale figures, do **not** use it in determining vehicle values for FS purposes.

There are several alternate Internet sites for determining vehicle valuations, including CarPrices.com, AutoPricing.com, Intellichoice, Edmunds's, and the Kelley Blue Book sites. If the site had two wholesale values listed, such as loan and trade-in values, select the trade-in value.

Do not increase the basic value of a vehicle by adding the value of optional equipment or low mileage. (FSH, Appendix 11.3.4).

If the on-line service does not require a mileage figure, leave the field blank and the online blue book will assume average condition/mileage. If a mileage figure is required by the service, use the higher of the actual mileage or average mileage. Average mileage is 12,000 miles per year for the first five years and 10,000 miles a year for all years thereafter.

Internet blue book sites do not retain historical values. Therefore, workers must print out and keep in the paper case record a hard copy of the valuation being relied on for the certification or denial. If there is a need to substantiate why the a valuation was used at some point in the past (quality assurance review, administrative hearing, fraud, etc.), that printed version will need to be your support as the internet history will be unavailable.

### ***EXCESS MEDICAL EXPENSE DEDUCTION***

Elderly or disabled FS group members may claim a medical expense deduction for medical expenses in excess of \$35.00 per month. "Elderly" and "disabled" members are defined in **FSH** Appendix 1.6.1. Among those items that are eligible medical expense deductions are Medicare premiums and any cost-sharing or deductible expenses incurred by Medical Assistance (MA, Medicaid) recipients. The deductible expenses actually incurred or anticipated to be incurred on a monthly basis may be used to determine the amount of the FS medical expense deduction.

The MA deductible amount itself does not determine the amount of the FS medical expense deduction, and should not be averaged over the FS certification period or periods to arrive at an excess medical expense deduction.

**Example:** An FS group member has an MA deductible of \$400.00 for a 6 month MA certification period. Based on the previous 6 months, the person anticipates he will incur \$75.00 per month in medical expenses. Enter \$75.00 on the medical expense screen and CARES will allow the FS group to deduct \$40.00 in excess medical expenses for each month. When the FS/MA group member meets the MA deductible, the member should report that information as a change in circumstance and the worker should remove the monthly excess medical deduction.

However, if the client experiences a one time medical expense during the FS certification period, the client has 3 choices in how that expense will be counted for a FS medical deduction. S/he can:

1. Deduct it as a lump sum for 1 month.
2. Enter into a payment plan with the medical provider and claim the monthly payment amount incurred under the payment plan. The monthly payments can be claimed for as long as the original payment plan is in place, even if that extends over more than one FS certification period. No incurred payment should be counted more than once.
3. Choose to average the one time medical expense over the remaining months of the certification period. The averaging of the one time medical expense cannot extend past the certification period in which the medical expense was incurred.

**Example:** Client is certified for 12 months for FS and 6 months for MA with an \$800.00 deductible. During month 2 the client incurs a one-time medical expense of \$4000.00. The MA deductible is met and the person becomes eligible for MA for the rest of the certification period. For purposes of FS eligibility, s/he can:

1. Chose to have the entire expense (\$4000.00) applied to one month, or
2. Enter into a payment plan with the medical provider and the incurred monthly payment amount is the amount used to determine the excess medical expense (incurred payment amount minus \$35.00). The payment plan can extend beyond the FS certification period in which the expense was originally incurred, as long as no part of the medical expense is counted more than once. For instance, if the payment plan calls for \$200.00 payments to be made each month for 20 months, the payments incurred can be counted for 20 months. However, if the client falls behind in the payment plan by \$600.00 and in the 21<sup>st</sup> month enters into a second payment plan to cover the remaining balance, **DO NOT** allow that \$ 600 as an excess medical expense because it was already deducted when it was incurred by the client in the first 20 months, or
3. Request that the \$4000.00 be averaged over the remaining 10 months of the FS certification period. In which case the monthly excess medical expense deduction would be  $\$400.00 - \$35.00 = \$365.00$  each month for 10 months.

The second option is also available when a household is billed for an allowable one-time medical expense prior to certification and has arranged to pay the expense on a monthly basis over a period of time. If during this period of time the household applies for FS, the monthly installment amount is an allowable expense for the excess medical deduction.

Under all of the one-time medical expense options, the amount incurred (**not** amount paid) is counted. The client may or may not pay the bill, that is why it is important to make sure that the expense is not counted more than 1 time.

## **FSET POLICY CLARIFICATIONS**

### ***1. FSET Exemption Because Incapable of Employment***

Individuals who are physically or mentally incapable of employment are exempt from the Food Stamp Employment and Training (FSET) Program. FSH 8.2.1, FSET Manual 3.4.0. FS eligibility workers may ask for verification of a claim that the person is incapable of working. Appropriate verification includes the receipt of temporary or permanent disability benefits issued by either a government or private source; or a supporting statement from a physician or certified psychologist. However, it is not necessary to obtain verification if the disability or incapacity is apparent to the FS eligibility worker.

If the client claims to be physically or mentally incapable of employment, the FS eligibility worker must decide if the person is exempt. A client who claims to be physically or mentally incapable of employment should not be referred to the FSET Program until the FS worker decides to reject the claim of exemption, either because the person is not observably incapacitated or cannot provide appropriate verification. A client who is determined incapable of employment by the FS worker should not be referred to the FSET Program.

If the FS worker refers a client to the FSET Program, and the FSET case manager obtains assessments that demonstrate that the client is physically or mentally incapable of employment. The case manager should provide those assessment to the FS worker who will rely on them to except the client from the FSET Program.

Assessments and verifications do not have to be obtained at every review. If the person is permanently disabled or incapacitated, or the assessment indicates that the incapacity for employment is long term, an assessment or verification does not have to be obtained at every review. However, if the verification or assessment indicates a temporary disability, for example, the client needs two months to recover from injuries received in a car accident, or relevant circumstances change, then the FS worker should seek

further information or verification of the person's condition at the next review and either refer or not refer a client to the FSET Program, based on the follow-up information.

As with all information that must be verified, it is the responsibility of the client to obtain the necessary verification. But, if the client cannot obtain it, then it is the responsibility of the FS worker to assist the client in obtaining the verification.

### *CARES Instructions*

In CARES, the question which controls the FSET incapacity exemption is located on ANDI, "IS INDIVIDUAL INCAPABLE OF OBTAINING GAINFUL EMPLOYMENT?" The question is answered "Yes" or "No" and must be verified.

The non-financial verification codes are on table TVR1. If the client's incapacity is apparent to the FS worker, and no outside verification is obtained, use the code NQ - "Not Questionable". If verification is obtained, use the appropriate code.

### *2. FSET Exempt Because Caring For a Child Under One Year Old or an Incapacitated Person*

Individuals who are caring for a child under one year old or an incapacitated person are exempt from the Food Stamp Employment and Training (FSET) Program. FSH 8.2.1, FSET Manual 3.4.0. Clarification has been received from FNS on several aspects of this exemption.

The child under 1 year old or the incapacitated person does not have to be part of the FS group or live in the same residence as the FS group. However, if the child or incapacitated person lives in a different household from the caretaker who is a member of the FS group, the child or incapacitated person cannot be receiving care from someone in the other household.

**Example:** The FS group is a mother, father and 2 school-age children. The mother cares for her elderly mother who lives alone next door to the FS group. If the elderly mother is incapacitated, the mother with school-age children is exempt from FSET. The FS eligibility worker may use his or her own judgment to determine that the elderly mother is incapacitated. If the FS worker cannot determine the person is incapacitated, the FS group member must provide verification through proof of receipt of disability benefits or a supporting statement from a physician or a certified psychologist.

The incapacitated person and the caregiver do not have to be related. At this time CARES will only determine a person exempt if the caretaker is caring for a spouse or child. If the caretaker is caring for someone who is not his or her spouse or child, the FS eligibility worker will have to manually exempt the caretaker from FSET.

**Example:** The mother and father and two school age children are in the FS group. The mother and father are not married. The father is incapable of employment and is receiving SSI, and the mother is needed in the home to care for him. The father is exempt from FSET because he is incapacitated; the mother is exempt because she is caring for an incapacitated person.

When a FS group member claims exemption from the FSET Program because he or she is caring for a child under one year old or an incapacitated person, the FS eligibility worker's responsibility is to determine whether the child is under one year old or whether the person is incapacitated, to exempt only one person as caretaker for each person in need of care, and if the child or incapacitated person is not in the FS household, to make sure that no other person is caring for them. Once those items have been verified, the FS participant must be exempted from the FSET Program unless the participant volunteers. It is contrary to policy for the FS eligibility worker to decide that the child under one year old or the incapacitated person can be cared for outside the home in a day care setting, or school setting. If the FS participant makes that choice and volunteers to be in the FSET Program, that is in accordance with policy and the participant is entitled to all the services available to any other FSET participant.

**Example:** FS group includes mother, father and two school age children. The father works in the private sector. One of the children receives SSI because of physical and emotional disabilities but attends school. The mother requests an FSET exemption as a caretaker of the incapacitated child. There is child care available in the community for a child with special needs and there is child care money available for this family. The mother declines to place the SSI child in available child care and wants to care for the child before and after school, during school vacation, when the child is ill, and when a parent is required at school. The mother is the disabled child's caretaker and is exempt from FSET.

### *CARES Instructions*

The FSET exemption "TA-CARING FOR INCAPACITATED PERSON" will be automatically set by CARES if a child is entered as incapacitated on ANIC. The parent designated as "caring for" on ANHR will automatically receive the exemption. If a spouse is entered as incapacitated on ANIC, the other spouse will receive this exemption. Remember to exempt the incapacitated person on ANDI. Manually exempt the caretaker of a person who is not a spouse or child of the caretaker.

### **CONTACTS**

For questions related to this memo, please contact the Call Center at (608) 261-6317.